

SECTION 9-1

SOLID WASTE ORDINANCE

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9-1-1 TITLE.

This Section shall be known as the Solid Waste Ordinance.

9-1-2 PURPOSE.

The purpose of this section is to preserve the health, safety, comfort and convenience of the inhabitants of the village and to preserve, protect and improve the environmental quality of the village.

9-1-3 DEFINITIONS.

For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (a) "Ashes" means the residue from burning of wood, coal, coke or other combustible materials.
- (b) "Code Enforcement Officer" means a duly sworn employee of the village who enforces designated portions of the village ordinances.
- (c) "Commercial establishment" means all structures, other than residences, together with the surrounding premises, on which any person produces or generates solid waste.
- (d) "Franchised Collector" means the person to whom the Village has granted an exclusive franchise to collect all solid waste within the Village.
- (e) "Garbage" means putrescent animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.
- (f) "Hazardous Wastes" means solid waste that is deemed as hazardous under federal statutes, rules or regulations.
- (g) "Infectious Waste" means a limited class of substances that carry a risk of transmitting disease, including but not limited to:
 - (1) Microbiological laboratory wastes, including clinical and stocks of infectious agents from clinical research and industrial laboratories, and disposable culture dishes and devices used to transfer, inoculate and mix cultures;
 - (2) Pathological wastes, including human or animal tissues, organs and body parts, removed during surgery, autopsy or biopsy;
 - (3) Disposable equipment, instrument, utensils and other disposable materials which require special precautions because of contamination by highly contagious diseases;
 - (4) Blood and blood products, including waste blood, blood serum and plasma;
 - (5) Used sharps, including used hypodermic needles, syringes, scalpel, blades, Pasteur pipettes and broken glass; and
 - (6) Contaminated animal carcasses, body parts and bedding.

- (h) "Landfill" means an area of land or an excavation in which solid wastes are placed for disposal and that employs an engineered method that minimizes environmental hazards and meets the requirements of the New Mexico Solid Waste Management Regulations.
- (i) "Person" means any individual, firm, partnership, corporation, cooperative, association or any other entity owning, operating, controlling or inhabiting any house, residence, shop, establishment or other premises with the corporate limits of the village.
- (j) "Premises" means any property within the village corporate limits adaptable for human occupancy and shall also mean, but not be limited to business places, apartment houses, offices, theaters, hotels, residences, cages, restaurants, eating places, tourist facilities, hospitals, schools, vacant lots and any other places or locations within the city limits where solid waste accumulates.
- (k) "Residential Collection" means solid waste collected from single-family residential homes.
- (l) "Residence" means a home, trailer, mobile home, or other freestanding structure used or capable of use as a human habitation, together with the surrounding premises, on which any person produces or generates solid waste; a single-family residence may include a guesthouse and other outbuildings on the same premises that are not continuously inhabited.
- (m) "Sanitation Officer" means the Village Clerk/Administrator or his or her designee, and is the person responsible for the administration and enforcement of this ordinance.
- (n) "Solid Waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations and from community activities, but does not include those items excluded as a solid waste by the Solid Waste Management Regulations adopted by the Environment Improvement Board of the State of New Mexico.
- (o) "Special Wastes" means types of solid wastes that have unique handling, transportation or disposal requirements to assure protection

of the environment and the public health and safety as defined by New Mexico Solid Waste Management Regulations.

9-1-4 ADMINISTRATION; SANITATION OFFICER.

- (a) The Sanitation Officer is responsible for the administration and enforcement of this ordinance.
- (b) It shall be the duty of the Sanitation Officer to oversee the handling and collection of all solid waste in the Village and disposal thereof. He/She shall have the authority to enforce this ordinance and to adopt regulations to implement this ordinance.
- (c) The Sanitation Officer shall monitor all franchisee's compliance with the terms of the franchise and monitor compliance with the terms of this ordinance.
- (d) The Sanitation Officer shall hear and decide complaints brought by the franchisee or persons served the franchisee concerning franchisee's or person's compliance with the terms of any applicable franchise or the terms of this ordinance, subject to the rights of appeal set forth in section 9-1-18 of this ordinance.
- (e) The Sanitation Officer shall notify persons whose containers are not in conformity to the requirement set forth in this ordinance.
- (f) The Sanitation Officer shall also;
 - (1) Notify persons using commercial containers if unsanitary conditions exist and order additional service if necessary.
 - (2) Resolve disputes regarding the placement of solid waste receptacles.

9-1-5 ACCUMULATION OF SOLID WASTE.

- (a) No person shall allow any solid waste to accumulate upon premises or real property owned, leased or occupied by him during intervals between collections thereof, except in the manner provided by this ordinance.
- (b) It shall be unlawful to deposit any solid waste in or upon the streets, alley, sidewalks, gutters or vacant land within the Village, except in the receptacles or containers as hereinafter specified.

9-1-6 COLLECTION AUTHORIZATION AND COMPULSORY SOLID WASTE COLLECTION.

- (a) The Village shall provide and maintain suitable equipment and personnel sufficient to collect solid waste within the Village and shall provide adequate areas for the disposal of solid waste. To achieve those purposes, the governing body may enter into an exclusive franchise for the collection and disposal of solid waste, including residential, commercial, and any other types of solid waste.
- (b) At the end of a franchise term and renewal term, the city may elect not to renegotiate or renew the franchise. In order to provide collection and disposal after the franchise term has expired, the Village may;
 - (1) Itself provide collection and disposal;
 - (2) Contract or Franchise with a person authorized to do business within the state and the Village; or
 - (3) Arrange for the collection in any other manner allowed by law.
- (c) Every person owning or controlling an occupied residence or commercial establishment within the Village is required to arrange for and receive the solid waste collection service provided by the Franchised Collector and to pay the solid waste collection fee established by the Village. Fees shall be billed by the Franchised Collector. The Franchised collector shall have exclusive rights to all roll off work, including construction debris.

9-1-7 RESIDENTIAL AND COMMERCIAL AND CONSTRUCTION DEBRIS COLLECTION

- (a) Residential Collections.
 - (1) *Residential container required; maintenance required.* Every person owning, leasing, or occupying a single-family residence within the Village shall provide or cause to be provided on his premises mechanically handled containers obtained from the village's authorized franchised solid waste collector.
 - (2) Mechanically handled containers provided by the franchisee shall remain the property and responsibility of the franchisee. Containers shall be maintained in mechanically sound condition by the franchisee.
 - (3) The franchisee shall be entitled to seek restitution for all maintenance, repairs or loss occasioned by the negligent or intentional acts of third parties from such responsible third parties.
 - (4) The combined weights of the containers and contents shall not exceed 150 pounds when placed for collection.

- (5) Containers will be loaded by residents in such a manner as they will self-empty when inverted.
- (6) Containers placed for collection by residents shall be placed roadside with lids closed. Any container deemed to be overloaded, which would cause spillage in the process of loading into the truck, will not be serviced.
- (7) The owner, occupant, tenant or lessee of each premise shall store the containers in such a manner as to keep the container from being overturned or upset and scattered in any manner.
- (8) *Times and location.* All residential containers, other than at a qualified physically disabled resident, shall be placed for pickup no later than 7:00 a.m. on the regularly scheduled day, but no earlier than 7:00 p.m. the evening prior to pickup, unless otherwise authorized by the Sanitation Officer. Except where special circumstances warrant otherwise and where approved by the village, all collections made by franchisee for other than a qualified physically disabled resident, shall be made at roadside and containers must be no farther than three feet from the driving surface of the street. Containers shall be clearly visible and accessible to collection vehicles and with three feet clearance from any obstructions including but limited to trees, shrubbery, walls, fences and vehicles. If more than one container is being used by a resident there should be a three-foot clearance between each container placed out for collection. All emptied containers shall be removed from the road area by midnight of the collection day.
- (9) *Frequency.* Solid waste from all residential premises shall be collected and disposed of once per week. Collection will start no earlier than 7:00 a.m. of the collection day.
- (10) *Reloading.* A resident may request a service of a reloaded container, at an additional charge.
- (11) *Seasonal Additional Volumes.* A resident may utilize an additional cart checked out from Village Hall, at an additional charge.

(b) Commercial Collection

- (1) It is the responsibility of the owner of the premises to arrange for commercial containers with the franchisee. It is also the responsibility of the owner of the premises to contact the solid waste franchisee concerning any relocation of container, change of service or change of business.
- (2) Commercial or business establishment and multiple-family dwellings with more than two dwellings on a single site are required to have a commercial container unless granted an exemption by the Sanitation Officer. The container shall be

- kept, by the owner of the premises, in a clean, neat and sanitary conditional at all times.
- (3) The size and specifications of a commercial container shall be based on the volume and type of solid waste produced by the particular commercial or business establishment or multi-family dwelling. In cases of disputes or disagreements concerning the appropriate size of a container or the frequency of collection, the Sanitation Officer may order a change in the size of the container or frequency of collections.
 - (4) The franchised collector shall collect all solid waste except special or hazardous wastes, which is contained inside the approved receptacle to be serviced for that premises. The solid waste shall not exceed the receptacle capacity and the container's lid must be closed when not in use. The owner shall not place any solid waste in any area other than in the solid waste container
 - (5) All solid waste receptacles shall be kept in a clean condition by the user and kept in good condition by the franchisee. The franchisee will perform or cause to be performed all maintenance and repairs upon solid waste containers in order to keep them in proper operating order. The franchisee shall maintain, repair or repaint a container upon the order of the Sanitation Officer. The franchisee shall be entitled to seek restitution for all maintenance, repairs or loss occasioned by the negligent or intentional acts of third parties from the responsible third parties.
 - (6) The commercial container shall at all times be located in a manner as to be readily accessible for removing and emptying. Criteria for placement shall include consideration of accessibility to the container by the collection vehicle and safety. In cases of disputes or complaints arising from or concerning the placement of a container, the Sanitation Officer shall designate the location of containers, taking into consideration among other things, safety in providing the service, convenience to the customers, convenience to collection crews, and hazardous conditions such as electrical wires.
 - (7) No commercial container shall be placed on any premises zoned R-1, street or alley without prior approval of the Sanitation Officer.
 - (8) *Collection times.* Commercial containers shall be serviced between the hours of 4:00 a.m. and 8:00 p.m. on the regularly scheduled pickup days.
 - (9) *Container size and frequency of service.* It shall be the responsibility of the franchisee and the commercial user to

determine the cubic yard side and number of pickups per week for commercial containers. The minimum number of pickups shall be one time per week. If, in the opinion of the Sanitation Officer, unsanitary premises are being maintained, written notice of this fact shall be sent by registered or certified mail, or hand delivered to the user. The notice shall state if the Sanitation Officer will require the user to increase the size of the container or to increase the frequency of collection service to maintain sanitary conditions. If within ten days after mailing or delivery of the notice, the premises are not being maintained in a sanitary manner, user shall be in violation of this ordinance and shall be subject to citation.

- (10) *Fees for commercial containers.* The fees for commercial collection include collection and disposal.
- (11) For commercial, business, other nonresidential establishments or premises where commercial container is used to serve two or more establishments, the fees provided may be prorated. In the event of a conflict, the pro-ration shall be as determined by the Sanitation Officer.

(c) **Construction Debris**

- (1) All construction sites shall have a method of containment for construction debris to prevent the debris from blowing or scattering upon the site or adjacent property and streets. The method of containment shall meet with the approval of the Sanitation Officer.
- (2) The producer of construction debris shall arrange with the franchisee for its collection and removal, except that the producer may personally collect the debris and transport it to a state permitted landfill. Transportation shall be in a vehicle, which will prevent the debris from spilling, blowing or in any other manner from being deposited on any street, roadway or property. No third party contractor may be used other than the franchised collector for the Village.
- (3) Any commercial roll off container placed in the Village limits, other than that of the franchised solid waste collector may be confiscated by the Village with the approval of the Sanitation Officer.

9-1-8 NONPERMISSIBLE WASTES

- 1. *Flammable or explosive materials.* Highly flammable or explosive materials shall not be placed in residential or commercial containers. The producers of such solid waste shall provide a disposal plan for approval by the village.

2. *Hot ashes; other combustible material.* No person shall deposit these materials into a solid waste receptacle for collection. Hot ashes, cinders, smoldering coals likely to ignite other materials unless the hot ashes, cinders, or smoldering coals have been cooled for at least 72 hours prior to the time of scheduled collection. No other oily, greasy materials or combustible substances may be placed in a collection container unless it has been placed into the waste receptacle in a metal or other noncombustible container.
3. *Special and Hazardous waste.* It shall be unlawful to place or cause to be placed in any container for collection any special or hazardous waste of any kind. Any special or hazardous waste will be removed from the village at the owner's or producer's expense to an approved site. Upon request of the generator and for a fee, the contractor shall remove and transport special or hazardous waste to an appropriately approved facility.

9-1-9 REMOVAL OF DEAD ANIMALS.

Any person in possession, charge or control of any carrion or dead animal or who owns, controls or occupies any premises upon which the same may be located shall cause the same to be removed and disposed of. No dead animal shall be placed in a solid waste receptacle.

9-1-10 DISTURBING SOLID WASTE RECEPTACLES.

It is unlawful to disturb or scatter solid waste or the contents of a solid waste receptacle.

9-1-11 BURNING OR BURYING SOLID WASTE.

It is unlawful for any person to burn or bury any solid waste, except nothing in this ordinance shall be construed to prohibit:

- (g) The disposal of solid waste by the normal or usual use of a garbage disposal unit or sanitary sewer facilities;
- (h) The normal use of home fireplaces;
- (i) Composting
- (j) Open burning of vegetative matter authorized by a permit from the Village of Bosque Farms.

9-1-12 PROHIBITED SCATTERING OR DISPOSAL OF SOLID WASTE.

It is unlawful to throw, place or deposit waste in or upon any street, public thoroughfare, driveway or any occupied or unoccupied premises within the Village except in those places and in the manner specified in this ordinance.

9-1-13 SOLID WASTE COLLECTION, TRANSPORT AND DISPOSAL.

- (a) Solid waste shall be collected and disposed of only by the Franchised Collector, except that:
- (1) Construction debris may be collected and hauled from the premises involved by those engaged in construction, remodeling or demolition. No third party hauler may collect and haul except for the franchised collector.
 - (2) Tree and yard trimmings accumulated by persons engaged in the business of gardening or landscaping may be collected and hauled from the premises where such trimmings have accumulated;
 - (3) Owner, occupants, or persons in control of commercial establishments may haul occasional loads of excess solid waste;
 - (4) Owner, occupants, or persons in control of a residence may haul occasional loads of excess solid waste; and
 - (5) Clean sawdust, rotted manure for fertilizer or farm debris may be collected and hauled by any person.

**9-1-14 FAILURE TO DEPOSIT REFUSE IN PROPER RECEPTACLES;
AUTHORITY OF VILLAGE TO REMOVE; ASSESSMENT.**

If any person shall permit any solid waste to be thrown, left, or deposited in or upon real property owned or controlled by such person, other than in proper solid waste receptacles as provided in Section 9-1-5, and fails to remove the solid waste or to place it in proper solid waste receptacles within forty-eight (48) hours after the solid waste is deposited, the Village Mayor or the Village Clerk may order the Franchised collector to remove the solid waste from the real property and to bill the person owning or controlling the property from which the solid waste is removed the actual cost of the

removal or a reasonable fee per half hour, whichever is greater. A separate assessment shall be made for each such removal.

9-1-15 UNAUTHORIZED DUMP SITES.

It is unlawful to dump refuse at any place except at the designated landfill unless specifically approved in writing by the Village.

9-1-16 COLLECTION RATES; INCREASES AND FEES

- (a) Collection rates for all classes and types of service shall be available for inspection at the office of the Village Clerk and at the office of the franchised contractor.
- (b) Rates shall only be changed in the following manner:
 - (1) Consumer price index (CPI) adjustments. Collection rates shall be adjusted administratively, if requested by the contractor on Residential, commercial, roll off and any other rates outlined in the rate sheets. CPI adjustments will become effective August 1st in years when a request has been made. CPI increases shall be adjusted by 50% of the amount of the National Consumer Price Index for All Urban Consumers (CPI-U) for the preceding May to May period.
 - (2) Petition for unusual or extraordinary costs. The franchisee may petition the village, at any time, for rate adjustments on the basis of unusual changes in the costs of operations, such as future, revised or new interpretations of, laws, ordinances or regulations; changes in disposal fees; differences in the cost of fuel; changes in the scope of services, redirection of solid waste, by the village, to an alternative site; increases in the costs of licenses, permits and village taxes; or for other good reasons. The village shall have the right to demand inspections by it, or authorized representatives or independent auditors, of pertinent records or documents that demonstrate the basis for an adjustment to the rates. The village shall not unreasonably withhold approval of a rate adjustment pursuant to this section. The Village shall conclude all action regarding the franchisee's request within 60 calendar days from the receipt of a petition. Failure to conclude action within 60 calendar days from the receipt of the petition may be deemed by the franchisee as approval of the franchisee's petition.

- (c) Franchise Fee. The franchisee will pay to the Village of Bosque Farm \$5,000 annually as a franchise fee. The franchise fee is for the cost of maintaining the infrastructure necessary for the collection of solid waste.

9-1-17 COMPULSORY COLLECTION AND SERVICE FEES

- (a) The owner or owner's agent of the property being served shall make the necessary arrangements for collection service. The owner or agent shall be the responsible party for billing and payment purposes. Owners of property shall be responsible for any unpaid bills left by tenants. Such persons shall pay to the franchisee the fees established and set forth by the village whether or not the solid waste collection service is actually used. Failure to comply is a violation of this ordinance, in accordance with NMSA Sect 3-48-1 through 3-48-7, as amended. Failure to pay solid waste collection charges is punishable under Section 19 of this Ordinance.
- (b) If any person owning or controlling real property fails or refuses to pay the fees chargeable to such person for solid waste collection the amount of such unpaid fees may be made an assessment against the real property from which the solid waste is collected or removed. The Franchised Collector may seek penalties including, but not limited to court proceedings, or lien foreclosures as provided by State Law.
- (c) If any Customer fails to pay the monthly bill within thirty (30) days after the bill has been mailed, a penalty of ten percent (18%) per annum of the amount of the bill or one dollar (\$1.00), whichever is greater shall be imposed
- (d) The franchised collector may temporarily suspend service for non-payment of fees according the procedures outlined in the franchised collector's contract between the Village and the collector.
- (e) Vacated premises shall continue to receive charges unless the owner or agent of such premises makes an application in writing to the franchised collector stating the date of vacated premises and expected date of re-occupancy. The collector may not stop charges until such application is made or the collector documents the vacancy through contact with the tenant or the owner. No credits shall be given for charges on vacant premises prior to receipt of such application or documentation. All charges are on a monthly basis and credit shall not be prorated. Vacated premises for less than two weeks will not receive a credit. Any person making a false statement upon any application or request pursuant to this ordinance shall be guilty of a violation of this ordinance.

9-1-18 GRIEVANCE PROCEDURE; WITHHOLDING PAYMENT.

- (a) If a person served by a franchised collector has a grievance, that person shall file a written complaint with the Sanitation Officer. The Sanitation Officer shall notify the collector of the complaint and give the collector five days to either correct the problem or respond to the complaint in writing. The Sanitation Officer shall schedule a hearing on the complaint within 15 days and send notice of the hearing to all parties by registered or certified mail no less than 15 days prior to the scheduled hearing date. The Sanitation Officer shall hear the evidence, and grant the appropriate relief including ordering the collector to change its practices, ordering adjustment of amounts paid to the collector or any other remedy that is appropriate.
- (b) Any person dissatisfied with the decision of the Sanitation Officer may, within 10 days of the adverse decision, notify the Village Clerk Administrator of his or her intent to appeal the decision of the Sanitation Officer. The appeal will be to the Village Council, which shall hear the appeal at a time set in its discretion. The decision of the Village Council shall be final.
- (c) Persons shall not withhold payment owed to the franchised collector.
- (d) Failure to pay appropriate statements or to bring current his or her delinquent account will entitle the franchisee to pursue its legal remedies either under the franchise agreement or as afforded by applicable laws.

9-1-19 PROPER RECEPTACLES; FAILURE TO USE VILLAGE SERVICE

- (a) The Village may remove or order its franchisee to remove any solid waste from any real property or any premises, if:
 - (1) Any person owning, occupying or controlling real property or premises allow solid waste to be deposited or accumulated upon his property other than in the proper receptacle and fails to remove solid waste or to place the solid waste in the proper receptacle within 48 hours after notice from the Sanitation Officer.
 - (2) The person owning, occupying or controlling real property or premises refuses to use the solid waste collection service provided by the village.

- (b) After the removal of solid waste the franchisee shall bill the person the charge allowed under this chapter for the removal. Failure to pay the charge is a violation of this ordinance.

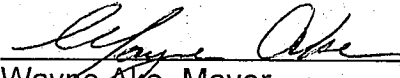
9-1-20 PENALTY

Any violation of this chapter is punishable by a fine of no less than \$25 and no more than \$500. Each day a violation of this chapter continues may be charged as a separate offense.

9-1-21 REPEALER

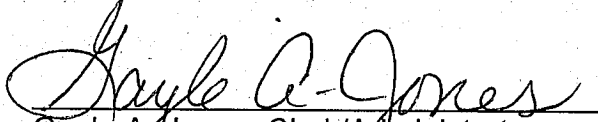
All ordinances or resolutions or parts thereof inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution or part thereof previously repealed.

Passed, Approved and Adopted this 21st day of July, 2005.


Wayne Ake, Mayor

(Seal)

ATTEST


Gayle A. Jones, Clerk/Administrator